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Anthony D. Cortese, Sc.D.
Commissioner

Hazardous Waste Update

GOVERNMENT DOCUMENTS
COLLECTION

SEPTEMBER, 1982 • SEPTEMBER, 1982 • SEPTEMBER, 1982 • SEPTEMBER, 1982 • SEPTEMBER, 1982 • SEPTEMBER

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Dear Interested Citizen,

University of Massachusetts

After two years of extensive public discussion, ~~DEQ's~~ ^{DEQ's} hazardous waste regulations have been finalized. They were published by the Secretary of State and became effective July 1, 1982. These Phase I regulations identify which wastes will be regulated as hazardous wastes, establish the cradle-to-grave manifest tracking system, and set forth procedures for licensing transporters and facilities. The new regulations, 310 CMR 30.000, completely replace Massachusetts regulations 310 CMR 2.00 which have been in effect since 1973 and EPA's May 19, 1980 hazardous waste regulations.

The promulgation of the Phase I regulations is a major milestone in the growth of the Massachusetts hazardous waste management program. I would like particularly to thank the members of the Hazardous Waste Advisory Committee for the many, many hours which they spent deliberating these complex, difficult issues in order to make recommendations to the Department. In addition, hundreds of citizens made very useful suggestions, comments and critiques of the draft proposals during the two year development period. The collective effort of so many individuals and groups has helped to produce regulations which will protect public health and the environment and which are workable and enforceable.

The attention of the Hazardous Waste Advisory Committee and DEQE's Regulatory Task Force now is focused on developing Phase II regulations--the technical standards for storage, treatment and disposal facilities. Major issues being discussed include recycling and beneficial reuse of wastes, location standards for facilities, and financial responsibility requirements. The Department anticipates holding public hearings on the draft Phase II regulations in the Spring, 1983. We also anticipate that some changes may be made in the Phase I regulations as we begin to work with them.

This Update summarizes the major requirements of the Phase I regulations, responds to the major comments we received on the Public Hearing Draft, and gives progress reports on the community hazardous waste coordinator program and remedial actions at hazardous waste sites.

On behalf of the Department, I thank you all for your continuing interest and your help in developing these regulations.

Sincerely,

[Signature]

William F. Cass
Director

EA20.4:

DIVISION OF HAZARDOUS WASTE
One Winter St., Boston, Ma. 02108

310 CMR 30.100 IDENTIFICATION AND LISTING OF HAZARDOUS WASTES

The final regulations which identify hazardous waste are very similar to those promulgated by the federal EPA. They contain four (4) lists of hazardous waste and identify four (4) characteristics which, if met by any waste, make that waste a hazardous waste. Massachusetts will continue to list waste oil and PCB-containing waste (in concentrations of more than 50 ppm) as hazardous waste.

Several commenters suggested that since PCB-containing wastes are regulated under TOSCA (the federal Toxic Substances Control Act), there is no need to also regulate them in these regulations. Further, these commenters felt that states are pre-empted by the federal government from regulating PCB's.

The Department agrees in part with these comments. The storage, incineration, and disposal of PCB-containing wastes are adequately regulated under TOSCA: however, the TOSCA regulations do not include the generator and transport requirements that the Department believes are necessary to track such wastes. Therefore, the final regulations require PCB generators and transporters to meet the same requirements as those who generate and transport any hazardous waste, and the regulations incorporate by reference the TOSCA standards for storage, incineration, and disposal.

The Department does not believe that this regulatory approach is pre-empted by the federal government.

310 CMR 30.200 INTERIM REGULATIONS FOR WASTE OIL

The Department has regulated waste oil as a hazardous waste since 1973. The Phase I regulations include interim provisions to maintain the status quo with regard to waste oils until Phase II regulations are promulgated. These provisions require that all waste oil be transported only by Massachusetts DEQE licensed transporters and that such waste oil be delivered to locations authorized by the Department. Persons who generate only waste oil which is not mixed with any other hazardous waste need not notify the Department at this time.

The issue of which waste oils will be regulated and in what manner will continue to be discussed during the development of the Phase II regulations. The Phase II Discussion Draft, available at all public libraries and Regional Planning Agencies, sets forth a preliminary proposal for managing used oils, depending on their origin, use and levels of contamination. The considerations of the Regulatory Task Force and the Hazardous Waste Advisory Committee during Phase II development will focus on ways to encourage more reuse and recycling of used oils, particularly used crankcase oil generated by "do-it-yourself" oil changers.

Persons wishing to comment on the Phase II Discussion Draft proposals for managing waste oils should contact Steve Dreeszen, Division of Hazardous Waste, (617) 292-5630.

310 CMR 30.353 INSIGNIFICANT WASTES

G.L. c. 21C allows the Division to exempt from regulations those hazardous wastes which it determines to be "insignificant" as a potential hazard to public health, safety, welfare, or the environment. The Public Hearing Draft of the regulations had proposed a list of businesses whose wastes would be considered "insignificant," e.g., beauty parlors, bowling alleys, etc. In addition, the Department had proposed to exempt from the regulations household -type waste (old paint cans, etc.) generated by any business. Many commenters suggested, however, that a fairer, more realistic, more easily administered way of designating such "insignificant" wastes would be to use a numerical cut-off point rather than a list of business types.

Therefore, the final regulations provide that any person who generates less than 20 kg of hazardous waste per month is not subject to these regulations. However, the waste still must be disposed of in an environmentally safe manner and in accordance with all applicable local, state and federal laws and regulations, e.g., the Clean Waters Act, the Wetlands Protection Act, DEQE sanitary landfill regulations, etc.

MIXTURE RULE

Many commenters suggested that the Department follow the lead of EPA and allow the mixture of hazardous waste with other wastes to reduce the hazardous characteristics and thus to remove them from regulation. This would require the adoption of a new Mixture Rule.

Since this issue has not been raised during any of the Phase I public process, the Department believes that the issue should be raised during the Phase II regulation development process.

310 CMR 30.300 REQUIREMENTS FOR GENERATORS OF HAZARDOUS WASTE

These regulations, like those issued by EPA, make it unmistakably clear that the generator is responsible for ensuring that hazardous wastes are properly stored, treated, or disposed of.

All generators of hazardous waste, both large and small, must notify the Department that they are generators and receive an identification number. (Generators who have not already received an EPA ID number should call Linda Benevides or Al Nardone at (617) 292-5630.) Generators also must:

- store wastes in a manner that ensures that they do not leak;
- use appropriate containers and labels to prepare wastes for shipment;
- prepare a manifest (shipping document) accurately describing the quantity, type, and destination of waste being shipped;
- arrange for a licensed hazardous waste facility to treat, store, use, or dispose of the waste (for lists of licensed haulers and facilities, call 292-5630);
- turn over the waste shipment and manifest only to a licensed hauler;
- retain one copy of each manifest, send one copy to DEQE, and send remaining copies with shipment;
- investigate any shipment for which the manifest is not returned within 35 days;

- submit annual reports to DEQE summarizing activities;
- obtain a license from DEQE if the hazardous waste is stored on-site for more than 90 days, or if it is treated or disposed of on-site; and
- establish a personnel training program and develop emergency procedures, including communications with local authorities.

Because the number of small generators in Massachusetts is higher than the national average, these regulations differ from the federal system by requiring small generators (those who generate between 20 kg and 1,000 kg per month) to be part of the management system. There are special provisions for the small generator. These provisions require that the wastes be managed the same as those from large generators; however, certain administrative requirements have been reduced. Small generators must use the manifest and ship their wastes by licensed transporters to licensed facilities. However, they may contract with certain licensed transporters to prepare the wastes for shipment and to fill out the manifest. (It should be noted that the generator still must sign the manifest and will remain liable for the proper disposition of the waste.) The small generator will not be required to submit annual reports, develop personnel training plans, or prepare contingency plans.

Also, the small generator is not subject to the same storage requirements as the large generator. He may store less than 1,000 kg on his property indefinitely without receiving a DEQE storage license. Once he has accumulated 1,000 kg or more, he becomes a large generator and the 90-day clock begins ticking. He must arrange for the proper disposition of his waste within the 90-day period or receive a DEQE storage facility license. (A company which becomes a storage facility by virtue of storing more than 1,000 kg beyond the 90-day period will become subject to all the requirements of 310 CMR 30.500 and 800, and must obtain a site assignment from the local board of health.) As long as the small generator never stores over 1,000 kg of hazardous waste beyond the 90-day period, he will not be required to receive a DEQE storage license.

There are also special provisions for generators who want to burn certain wastes as fuels at the site of generation and for those who want to send their hazardous wastes to another manufacturer for re-use. These circumstances are described in the sections of this Update entitled, "For Generators Whose Waste Can Be Combusted In Their Own Fossil Fuel," and "Recycling and Re-use." These provisions are based on the concept that certain materials which can be re-used and which would otherwise be wastes are not wastes when they are not thrown away.

30.356 FOR GENERATORS WHOSE WASTE CAN BE COMBUSTED IN THEIR OWN FOSSIL FUEL

Waste oils and solvents comprise approximately 50% of the hazardous waste generated in the Commonwealth. The use of waste oils and solvents as fuel could, under certain circumstances, provide an economic, efficient, and safe means of disposal of hazardous waste, as well as an inexpensive source of heat energy.

However, waste oils typically contain high concentrations of lead and chlorinated compounds and may contain other metals, PCBs, and contaminants of concern. Emissions from the burning of waste oils with high levels of

metals and chlorinated compounds and from the burning of solvents may adversely impact air quality.

This section of the regulations discusses how a generator must apply for and receive approval from the Department to burn waste oil and solvents at the site of generation. DHW and the Division of Air Quality Control have adopted a joint interim policy with regard to receiving approval to use waste oils and solvents as fuel.

DEQE's interim policy on the use of waste oils and solvents as a fuel states that:

- 1) DEQE will continue to consider for approval the burning of certain waste oils/solvents (those which are hazardous because they are ignitable) as fuel at the site of generation (site where they were produced) or at a different site owned by the same company which produced them.
- 2) DEQE will give notice to those facilities which have historically used waste oils/solvents, which they have not generated, as fuel with DEQE approval, authorization, or knowledge, that DEQE will be developing guidelines or regulations which will have to be met if this use is to continue.
- 3) Until final guidelines/regulations are established, DEQE will not approve any new use of waste oils/solvent as fuel at any off-site location which has not historically had DEQE approval, authorization or knowledge.

INTEGRAL PART OF THE MANUFACTURING PROCESS

The Hazardous Waste Management Act exempts treatment processes which are an integral part of the manufacturing process from regulation. In attempting to define which operations qualify under this exemption, the Department had first proposed that the treatment process be an "essential" part of the manufacturing process. However, there are very few circumstances in which such treatment would be "essential," i.e., where the treatment would be necessary to the production process. Therefore, in order to encourage the design of production processes to treat the residues as part of that process, the final regulations have been revised to require that the treatment process be "a component" of the manufacturing process.

310 CMR 30.004 and 30.009 EFFECTIVE DATE AND TRANSITION PERIOD

The effective date of these regulations is July 1, 1982. However, large generators will have 90 days (by October 1) to begin sending copies of all manifests to the Department. Small generators must begin sending copies of all manifests to the Department by December 31, or the date of their first shipment, whichever is first.

TIME LIMIT

Commenters suggested that DEQE give itself a time limit within which to respond to license application requests. The Department agrees and will make decisions about whether an application is complete within 60 days of

receipt. However, we believe that the schedule for actually issuing a draft license should remain flexible because of the variations in license applications which we will receive and which will require case-by-case review.

310 CMR 30.400 REQUIREMENTS FOR TRANSPORTERS OF HAZARDOUS WASTE

Hazardous waste transporters must be licensed by DEQE before they can haul hazardous waste in Massachusetts. All transporters who are currently licensed by the Department will be required to reapply for a license before October 1, 1982. The regulations require that transporters must:

- submit new license application to DEQE by October 1. All existing licenses will expire on December 31, unless specifically extended by an order from the Division;
- set up provisions for a personnel training program for all drivers and handlers of hazardous waste to make sure they know necessary laws and proper waste handling practices;
- apply for special license if intend to handle preparation of manifests, and labeling and packaging hazardous waste for small generators;
- submit monthly reports to DEQE describing volume, types and destination of hazardous waste handled;
- only accept waste from a generator who has signed a manifest for each load;
- inspect the hazardous waste to make certain it fits the manifest description and is properly labeled and placarded;
- sign each manifest, deliver the shipment to the authorized facility and obtain the signature of the facility owner or operator to certify that the full amount of hazardous waste has been delivered;
- keep a copy of each manifest; and
- immediately notify the appropriate authorities (DEQE, state police, and local fire and police officials) if a hazardous waste spill occurs, and immediately take steps to ensure cleanup.

The regulations also require all transporters to obtain at least \$1,000,000 worth of liability insurance for bodily harm, property damage, and environmental restoration and to be bonded for a minimum of \$10,000.

(The Public Hearing Draft had proposed that transporters be required to submit certain kinds of financial information in order to receive a license. The new regulations requiring bonding and insurance are intended to ensure that such businesses have the ability to cover accidental damage. Therefore, the Department no longer needs the financial information, which was intended to insure that companies would be able to pay for cleanup of spills).

310 CMR 30.500 REQUIREMENTS FOR HAZARDOUS WASTE TREATMENT, STORAGE, AND DISPOSAL FACILITIES

The owners or operators of facilities for the treatment, storage, use, and/or disposal of hazardous waste must obtain a license from DEQE. The licensed facilities are the destination for the hazardous waste shipment. Their activities vary widely. Some facilities may store drums in warehouse, building up larger shipments for treatment, use, or disposal at a later date. Others may process wastes to neutralize them or recover resources. Still others may dispose of hazardous wastes through controlled incineration or

land disposal. Some facilities may combine some or all of these operations.

The Phase I regulations require facilities to meet stricter management and operational requirements than those formerly required. These range from standards for hazardous waste analysis when wastes enter a facility to plans for how a facility eventually will close. They spell out how the facility must:

- analyze incoming wastes to ensure proper handling;
- provide security measures to prevent unknowing entry;
- conduct and record periodic inspections and remedy any apparent problems;
- train personnel in proper waste handling methods;
- establish an emergency preparedness and response plan with local, state, and federal emergency response personnel;
- comply with the manifest system;
- submit annual reports and monthly reports and meet certain other recordkeeping and reporting requirements; and
- plan for closure of the facility and for maintaining it after closure.

Phase II regulations, presently in the development stage, will establish technical, operational, and financial responsibility standards for hazardous waste facilities. Final promulgation is expected in 1983.

310 CMR 30.355 and 30.143 RECYCLING AND REUSE

The foundation of a system to encourage the reuse and recycling of hazardous wastes has been developed in Phase I of the regulations. These regulations address the fairly simple case where the spent material or manufacturing by-product of one company can be reused directly by a second company as a raw material. All generators sending waste off-site to be reused are required to notify the Department as to the type, amount and destination of their waste and to receive approval (not a license) from the Department. Upon approval, the materials which are to be reused are no longer considered wastes and are exempt from regulation, so long as the materials being reused or the methods of reuse do not differ from what was specified in the notification. This exemption is based upon the assumption that such materials are not really wastes and therefore need less regulation than wastes which must be sent to disposal facilities.

Several commenters were concerned about the "reuse" provisions in the Public Hearing Draft--specifically, how much processing would be allowed before "reuse" became "recycling" and therefore subject to more management standards. As a result of these comments, the language of the final regulations was clarified to say that "the material must be re-usable with no more processing than the raw materials for which it is being substituted by the user."

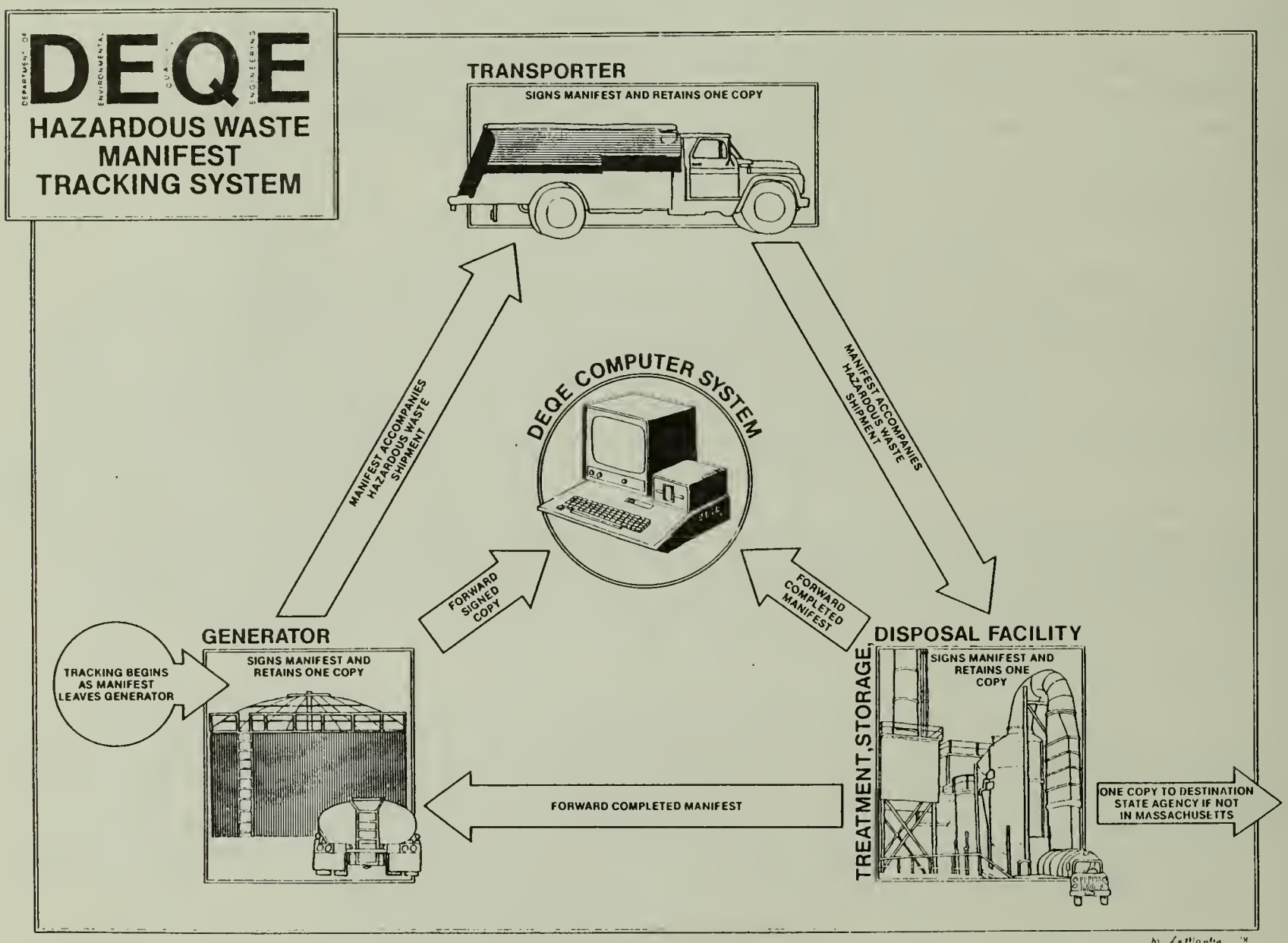
The Department has adopted the term "recycling" to apply to cases where processing of a waste is necessary before it can be utilized. Recycling will be addressed in the Phase II regulations. The Hazardous Waste Advisory Committee and the DEQE Regulatory Task Force are continuing to refine proposals set forth in the Phase II Discussion Draft regarding these situations.

Although most recycling provisions will be in the Phase II regulations, the final Phase I regulations contain special requirements for some hazardous wastes which are to be recycled. Metallic wastes which are hazardous by characteristic, which are destined to be recycled and have commercial value

and which have a history of routine commercial trade (for example, scrap metals) are exempted from regulation. If such a waste is not recycled and is found to be hazardous by characteristic (i.e., fails the EP toxicity test or the test for reactivity), then it is subject to all the requirements of these regulations.

THE MANIFEST SYSTEM

A manifest, or shipping document, must be completed for every waste shipment, regardless of size, that leaves the generator's property. This is the start of the cradle-to-grave tracking system. The manifest must stay with the shipment of waste until it reaches its final destination at an approved treatment, storage, recycling or disposal facility. Unlike the federal manifest system, the Massachusetts tracking system requires that both the generator and the facility operator send copies of the manifest to DEQE when the shipment leaves the generator and when it arrives at the facility. Generators are liable under the Massachusetts Hazardous Waste Management Act, MGL Chapter 21C, for improper handling of hazardous waste. Violations of the Act are punishable by up to \$25,000 per violation per day and up to five years in prison.



Steps in the proposed manifest system are:

1. The generator signs the manifest, sends one copy to DEQE and gives the remaining copies to the transporter.
2. The transporter signs the manifest, delivers the shipment to the facility (or designated alternate facility) and retains one copy.
3. The facility operator signs the manifest, sends one copy to the generator, one to DEQE, and one to the environmental agency in the destination state if it is not Massachusetts.

4. If the generator does not receive a signed manifest from the facility within 35 days, he must begin an investigation and report the results to DEQE within 45 days of the original shipment.
5. DEQE matches via computer copies of the manifests received from generators and facilities and investigates discrepancies.

In addition to being an important enforcement tool, the manifest contains information, e.g., types of wastes, that may be critical to emergency response personnel if there is an accident. Generators will be required to use the New England manifest form. (EPA has proposed a uniform national manifest form which may later be required.)

310 CMR 30.800 LICENSING REQUIREMENTS AND PROCEDURES

This section of the regulations sets forth procedures for applying for a license to transport, store, treat, use or dispose of hazardous waste, general license conditions applicable to all licensees, and procedures for public review of license applications.

CONFIDENTIALITY

Chapter 21C states that, upon request, information obtained by DEQE pursuant to the law shall be kept confidential when the commissioner judges that disclosure of such information would divulge a trade secret. Although the draft confidentiality regulations were published with the other hazardous waste draft regulations, the final confidentiality regulations were published separately in August as 310 CMR 3.00. The regulations state that a company must declare upon submission of information to DEQE that it believes the information should be held confidential and must substantiate its claim of confidentiality.

COMMUNITY HAZARDOUS WASTE COORDINATOR TRAINING PROGRAM WINTER/SPRING 1982

During the first six months of 1982, the DEQE Division of Hazardous Waste sponsored a series of four training sessions for community hazardous waste coordinators. Each session was held in at least four regional locations across the state and all meetings were free of charge. Through a funding allotment from the Department of Environmental Management, the Division supplied training materials to attendees. A number of other state agencies contributed their time and expertise to the spring training program. They included the: Massachusetts Fire Fighting Academy; Department of Environmental Management; and DEQE Division of Water Supply.

Seven hundred and twenty five people attended the four spring sessions.

The Division is planning two additional training sessions for the fall. One will be on "Hazardous Waste and Public Health"; the other, "Developing a Local Hazardous Waste Management Program." For more information on these sessions, please contact Betsy Goggin at 617-292-5630 in September. This summer the Division is conducting an evaluation of the coordinator program to gather more information about its effectiveness.

PROGRESS REPORT ON CONFIRMED HAZARDOUS WASTE SITES

Rather than publishing annual reports on the status of uncontrolled hazardous waste sites in the state, the Department will provide updates on their status re. investigation and cleanup in the periodic Hazardous Waste Update. This Update focuses on recent activities at four priority sites in the state, and gives examples of sites recently cleaned up with private monies as a result of DEQE enforcement actions. Forty-nine confirmed hazardous waste sites have so far been cleaned up or secured, largely through DEQE enforcement actions. Seventy-four percent of these sites were cleaned up with private monies. Another 45 sites are still in various stages of investigation and remedial action.

Industriplex, Woburn: In May, DEQE and the US EPA signed a consent order against the Stauffer Chemical Co. to investigate and cleanup a portion of this 400-acre site. Shortly after EPA released a list of the 114 top-priority hazardous waste sites targeted for cleanup under Superfund, which named Woburn as one of the highest priorities in the country, the company voluntarily came forward to negotiate a cleanup agreement. Stauffer had glue manufacturing facilities on a portion of the site from 1934-1968. Under the agreement, Stauffer will: 1) conduct a comprehensive investigative study to determine the extent of all contamination on the entire site 2) propose and participate in a cleanup approved by the state and EPA 3) monitor the site for 15 years after the cleanup is completed.

New Bedford Harbor: DEQE and EPA have issued a consent order against Aerovox, Inc. and Cornell-Dubilier Electronics, Inc. to cleanup on-site deposits of polychlorinated biphenyls (PCBs). Cornell-Dubilier will, under order, remove PCB-contaminated dirt piles from its property, pave a large area behind its plant, and install groundwater monitoring wells. A low-lying area on the property will be capped and discharge lines to the city sewer system will be cleaned. The project will cost about \$400,000. Aerovox, Inc. will study PCB contamination in the soil behind its plant on the banks of the Acushnet River (which empties into New Bedford Harbor), study remedial alternatives and carry out an approved cleanup program. Both of these actions will help prevent further contamination of the harbor by residual PCBs.

ND Cass Co., Orange: The firm successfully completed cleanup at this site in June. The Department had ordered the company to evaluate the problem at the site and to institute remedial actions. As a result of that order, the company removed and disposed of 254 barrels of solvents, paints, and thinners which it had used in the manufacture of wooden toys on the site.

Resolve, Inc., Dartmouth: EPA announced in May the allocation of \$600,000 from the federal Superfund account to be used for remedial work at this site. This represents the first major allocation from Superfund for Massachusetts. Although some remedial actions have taken place at the site of this abandoned solvent recovery plant, contamination of the soil, groundwater and surface water continues. DEQE and the Attorney General have brought suit against the current owner of the site for recovery of cleanup costs. A trial date has yet to be scheduled.

Four new sites have been added to the list of hazardous waste sites under investigation: 1) Eastern Chemical Specialties, Worcester; 2) SCA/Cal's Landfill, Berkley; 3) Baird & McGuire, Inc., Holbrook; and 4) D.T. Sullivan, Inc., Lowell.

Seven sites, listed in the 1981 Update of the Management for Site Investigations as under evaluation to determine if hazardous wastes are present, have been investigated and subsequently removed from the list of hazardous waste sites. They have been determined to contain no hazardous waste and therefore require no remedial action by the Department. They are:

- Boston Edison, Boston
- Deucon Corp., Danvers
- E.L. Margett and Sons, Hingham
- Allied Chemical Corp., Medford
- Eastman Gelatin Kodak, Peabody
- Vaughn Corp., Salisbury
- New England Power, Somerset

These sites have been secured since publication of 1981 Update of Massachusetts for Site Investigations.

- | | |
|--|---|
| 1) <u>Athol</u> , Starrett | 15) <u>Palmer</u> , Residential Management Corp. |
| 2) <u>Bellingham</u> , Benzenoid Organics | 16) <u>Pepperell</u> , Indian Hill Ski Area |
| 3) <u>Cambridge</u> , WR Grace | 17) <u>Shrewsbury</u> , Phalo Corp. |
| 4) <u>Dartmouth</u> , H & M Drum | 18) <u>Springfield</u> , Interstate Uniform |
| 5) <u>Freetown</u> , H & M Drum | 19) <u>Springfield</u> , National Metals
Finishing Co. |
| 6) <u>Great Barrington</u> , Hapt Tree Co. | 20) <u>Ware</u> , Ludlow Corp. |
| 7) <u>Greenfield</u> , Tap & Die | 21) <u>Warren</u> , Beatrice Salls |
| 8) <u>Greenfield</u> , Recycliron | 22) <u>Westfield</u> , Columbia Bike |
| 9) <u>Hopkington</u> , Monson Chemical | 23) <u>Westfield</u> , Westfield Coating |
| 10) <u>Lee</u> , Mead Corp. | 24) <u>Wilbraham</u> , Utility Manufacturing |
| 11) <u>Lee</u> , Schwitzer | 25) <u>Worcester</u> , Harris Oil |
| 12) <u>Lenox</u> , Lane Landscaping | 26) <u>Worcester</u> , Warner |
| 13) <u>Millbury</u> , Jeffco Fibers, Inc. | |
| 14) <u>Orange</u> , ND Cass | |

A \$100,000 cleanup to remove approximately 300 barrels of hazardous waste began August 16, 1982 in Middleboro. The site, J & G Auto Salvage, was discovered by DEQE inspectors in September, 1980. The case was referred by DEQE to the Attorney General for enforcement action. The action resulted in the issuance of a consent decree against the owner of the site, William H.H. Johnson III ordering him to cleanup the site. When Johnson failed to obey the order, the Attorney General ordered that the junk yard and other properties of J & G Auto be sold and the proceeds used to offset the cost of the cleanup operation. The cleanup operation will include excavation of soil around the barrels, sampling and classification of wastes, and repackaging and disposal of the barrels.

MASSACHUSETTS OIL AND HAZARDOUS MATERIALS RELEASE PREVENTION AND RESPONSE ACT

This bill, introduced to the Legislature in May by Governor King (as H. 6367), would appropriate \$25 Million through a general obligation bond fund for the state to respond to emergencies caused by releases of oil and hazardous materials and to cleanup confirmed hazardous waste sites. The fund would also provide the state's 10 percent share necessary to qualify for federal Superfund assistance. Other pertinent features of the bill include:

- Persons responsible for releases are liable for three times DEQE's clean-up costs. Treble damages are set to reflect overall costs, including debt service, of financing state cleanup from general obligation bonds. Also, persons responsible are jointly and severally and strictly liable.
- To facilitate recovery of funds, the bill provides a procedure whereby costs incurred by DEQE are given priority lien status after municipal taxes.
- The bill extends the statute of limitations for civil actions to collect DEQE cleanup costs until the latter of the following: five years after the Commonwealth incurs the costs, or five years after the Commonwealth identifies the person responsible for the release.
- DEQE is authorized to prescribe requirements for "preventive medicine" (e.g. monitoring devices, containment devices) for persons engaged in activities which entail a high risk of hazardous material releases.

The Committee on Natural Resources and Agriculture held a public hearing and a series of meetings with DEQE and various interest groups early in the Summer; the Committee subsequently rewrote portions of H. 6367, the Governor's bill. The bill, as redrafted, as been renumbered H. 6551, and is currently pending before the House Committee on Ways and Means.

Some features of the bill as it is currently written are likely to be the subject of debate after the Legislature reconvenes in September. Issues of third party liability, sources of funding and apportioned liability are among those issues that will probably be raised by environmental and industry groups. A number of changes made in the original bill would also limit DEQE's ability to respond to releases or threatened releases and would restrict the Department's ability to recover costs.

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